

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEORGE DAVIS,

Plaintiff,

- against -

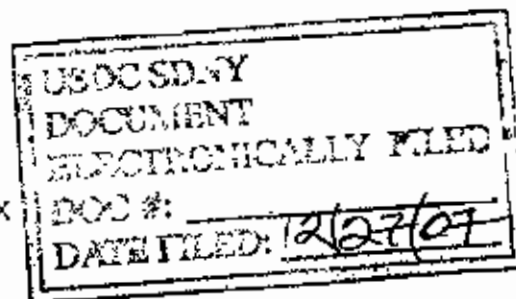
NEW YORK STATE DIVISION OF PAROLE,
ATTORNEY GENERAL, ELIOT SPITZER, ASST.
ATTORNEY GENERAL JONATHAN SAUL, CHAIRMAN
ROBERT DENNISON, WARDEN, ANNA M. KROSS
(C-95), (SPO) CRISTERPHER WROBLESKI,
PAROLE OFFICER P. BRATHWAIT, PAROLE
OFFICER BIZRAM,

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

O R D E R

07 Civ. 5544 (NRB)



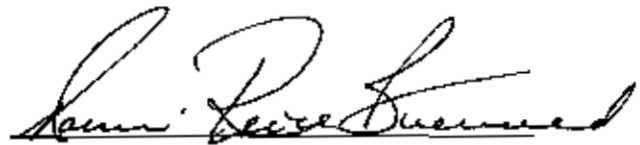
Plaintiff moves this Court pursuant to 28 U.S.C. § 1915(e) for appointment of counsel. When deciding whether to appoint a lawyer for an indigent party in a civil action, the following criteria are applied: (1) the merits of the party's claims; (2) ability to pay; (3) plaintiff's efforts to obtain a lawyer; (4) the availability of a lawyer; and (5) plaintiff's ability to gather and deal with the relevant facts. See Cooper v. A. Sargenti Co., 877 F.2d 170, 172 (2d Cir. 1989). The threshold requirement is a showing of sufficient likelihood of success on the merits to warrant the appointment of counsel. See, e.g., McDonald v. Head Criminal Court Supervisor Officer, 850 F.2d 121 (2d Cir. 1988). When evaluating the merits, pro se complaints are held to a less stringent standard. Haines v. Kerner, 404 U.S. 519 (1972). Nevertheless,

courts must be wary when assigning counsel, as "every assignment of a volunteer lawyer to an undeserving client deprives society of a volunteer lawyer available for a deserving cause." Cooper, 877 F.2d at 172.

Based upon the record submitted to date, which is limited to the complaint, I cannot conclude that plaintiff has demonstrated a likelihood of success on the merits that would support the appointment of counsel. Thus, the application is denied without prejudice to reconsideration at a later time should a more complete record warrant a different result.

IT IS SO ORDERED.

DATED: New York, New York
December 27, 2007



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Copies of the foregoing Order have been mailed on this date to the following:

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